IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

Bail Appl..No. 6989 of 2007()

CR.NO.143/06 OF NEDUMANGAD EXCISE RANGE.

: PETITIONER/ACCUSED NO.4

BIJU, BIJU BHAVAN,
KOODAL BHAGAM, KOKKOTTELA,
ARYANADU.

BY ADV. SRI.A.RAJASIMHAN

RESPONDENTS: COMPLAINANT

EXCISE INSPECTOR, NEDUMANGAD EXCISE
RANGE, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH
COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6989 OF 2007

Dated this the 19th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 4th accused. Altogether, there are four accused persons. All others have now been arrested. The crux of the allegations is that all the four accused persons were found to keep in their possession 30 litres of arrack and 25 litres of Wash when the detecting Excise party reached the scene. Only accused No.1 could be arrested at the scene. Others took to their heels. The petitioner has not been arrested so far. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application.

There are no circumstances justifying or warranting the invocation of the jurisdiction under Sec.438 of the Cr.P.C. The petitioners may be directed to surrender before the Investigating Officer or the learned Magistrate.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. The petitioner is named in the contemporaneous seizure mahazar and the occurrence report. I find no reason to throw over board the case of the prosecution at this stage. I find no reason to justify or warrant the invocation of the jurisdiction under Sec.438 of the Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must surrender before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of

the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge